P.F47-98

G. R. S. IX-5]

Previous references.

1897-98
~~191~~ .
(R)

File No. 85-97

Serial Nos. 17

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1–7

M ~~Part~~ B for April 1899

SUBJECT.

Dispute re the sale of S.No. 16 of Jakkanhalli-Gubbi Taluk, for the recovery of the arrears of Land Revenue.

W D 1250—GPB—30,000 - 28-1-19

The Deputy Commissioner's order now produced does not deal with the petitioners allegations of fraud etc. Though the Dy Commr thought fit and called for a report and allowed a pleader to argue on the petition on his behalf the revision application was rejected on the ground of limitation and not on its merits.

In cases like the present where the second order does not deal with the facts of the case, it is usual to call upon the petitioner to produce a copy of the 1st order d. 1.11.1897

It is moreover open to grave ~~doubt~~ doubt if the Deputy Commissioner is competent to entertain such application. Chapter XIII of the C.P. Code does not mention such applications, though it mentions applications for the revision of subordinate officers' orders. The only authority that may be relied on for such a course is Para 2 of —

Any thing done that be confirmed at the Creditors meeting at the Sale. Petition in Office on Monday

Pet^{n} No 2530

Sec^{n} XLIII of the A R Rules.

which "the provisions of the civil Procedure Code in force for the time being shall be as regards followed other matters not provided for by the Code or Rules

As a matter of fact this procedure has been latterly allowed by Govt. That this is unconstitutional is however clear from the fact that an appeal from a decree in such cases lies to the District Court.

Sale conducted on 4th May 1897
confirmed by the Court on November 1897
Case be filed in April 1898.

= The pet^{r} admits that he was aware of the attachment & sale & that his signature to the proceedings was false

Sub of Rec Cannanore
Examined Dr
My 19/4/98

Rec^{d} 23/11/97

Call for a report & records. Inquire why there was a delay of months & say in forwarding the sale proceedings, also why if the decree was obtained by fraud the Munsiff received papers from Pleader against whom fraud is charged & not from Pleader against whom fraud is charged

Sec^{y} 25/11/97

Sec^{y} 26/11/97

Appeal petition
No 2530 of 13-6-98

Appellant- Lakkanna brother of Ranji Rangana living in Jakkanahalli, Gandidevarada samudra, Gubbi Taluk Tumkur district.

Subject

This is an appeal against order no 1157/1335 of 28-2-98 of the Dy. Comr of the Tumkur district, declining to cancel the sale of x s. no 16 of Jakkanahalli, held on 29-5-97 for the recovery of the arrears of land revenue for Fasli year ie 1896-97.

	Extent	assessment
x s no 16	14-27	14-11-11

Facts of the case.

Appellant- Lakkanna had two brothers viz (1) Ranji Ranga and (2) Bella. Bella in 1887-88 transferred the patta of s. no 16 which

Note -
Appellant - Lakkanna.
Respondent - (1) Venkataramanayya (Shanbhog)
(2) Venkatappa brother of (1)
3 Gangadharayya son of the sister of (1)&(2).

S. no 16. That he holds duplicate copy of the patta of the land. That in spite of his entreaties to give his portion of Rent-payment Rs 22-12-0 at one instalment even so early as the beginning of the 1st instalment, the Taluk authorities refused to receive the same, served notice on Venkatappa in whose name the patta of the land was issued, and conducted the sale with a view to defraud him. That the purchaser at the sale is Venkatappa's sister's son. That he has remitted Rs 22-12-0 to be credited to the Treasury on his account. That the receipt of the amount may be entered in his duplicate copy of the patta which he has sent along with his petition. And that the sale of his land may be cancelled. The other petition refers to the sale of Palekannada house referred to in para 3. The Amildar ordered on these petitions that the Shekdar should report on the records connected with the sale proceedings.

5 Meanwhile Ramadhuran

Vide — (1, 2, 3, 4, 85-7).
These are enclosures to
Ferist no 19.

3. Simultaneously with the sale proceedings mentioned in para 2 Lakkanna was served a demand notice 31-3-97 for the recovery of Rs 1-8-0 due by him as his house tax. On his failing to pay up the arrear within the fixed date, his vacant building site no 32 and house no 17 were forfeited by the order of the Amildar and only house no 17 was sold on 29-5-97 for Rs 2-4-0 to Shanbhog Venkataramanya. But in the sale publication notice of 16-4-97 vacant building site no 32 is mentioned & house no 17 is not mentioned. The Shekdar submitted both the sale proceedings on 1-6-97 to the Amildar for sanction. The 2nd sale was set aside ~~cancelled~~ by the Amildar on the ground that it was irregular.

4 Shortly after the holding of sales mentioned in para 2 and 3, Lakkanna submitted two petitions to the Amildar on 8-6-97 One petition states as follows— That he is the hissadar of

was in his name to Venkatappa the 2nd Respondent. But Manji Ranga and Lakkanna objected to the transfer on the ground that they had shares in the land. Then it was endorsed on their petition that the mere transfer of patta would not affect their interest or shares in the land, and patta was issued in the name of Venkatappa. Lakkanna afterwards applied for the duplicate copy of the patta on 1-6-95 and got it.

2. Venkatappa was served a notice of demand 9-1-3-97 for Rs 46-13-9 arrears due by him for the year 1896-97. On his failing to pay up the same within the fixed date his survey no 46 was forfeited by the order of the Amildar and was sold on 29-5-97 by the Shekdar, after the publication of the sale notice 9 16-4-97, to one Gangadharayya for Rs 46/-. At the time of the sale S. no 46 was Banjar.

Note in the demand notice (1) only Venkatappa's name is mentioned. Patel Manjunda Gowda has signed for Lakkanna.

Note in the Jabtepatte & the forfeit order (2) and (3) Venkatappa's name is alone mentioned.

Note in the sale publication notice (4) Patel Manjunda Gowda has put in his signature. But it is not stated for Lakkanna.

Note also that Hearing patte (5) states that Venkatappa was served notice, but there is no mention of the Lakkanna. Lakkanna does not seem to have been present at the sale as the Hearing patte contains no signature of him.

2

submitted a petition to the Amildar for the possession of S.No 16 as he had paid for it the full amount of purchase money.

(9)7 - 27-7-97

6 The Amildar regarding the sale of S.No 16 gave the following Ambikam to the Shekdar that Lakkanna submitted two petitions stating that he was a Hissadar of S.No 16, that he remitted half of the Kandayam and that the sale might be cancelled. That half of the Kandayam could not be accepted & the sale could not be cancelled as was requested by Lakkanna. And that if the purchaser at the sale would consent to the cancellation of the sale & the petitioner would agree to pay the whole of the Kandayam, they should be sent before him for enquiry.

Vide - Amildar's order No 1513 6-9-97 enclosure 6 (1)7

7 On the receipt of the above ~~report~~ order the Shekdar reported as follows — That Lakkanna refused to pay the whole of the Kandayam on the

Vide Shekdar's report (2)7 23-9-97

ground that he owned only a moiety of the land and that the purchaser at the sale was also unwilling to cancel the sale.

8 Meanwhile Lakkanna had submitted the following petition to the Amildar — That he heard that the Shekdar reported that the petitioner refused to pay Kandayen. That the Shekdar submitted a false report without bringing the order of the Amildar to the notice of the petitioner. That he was ready to pay up the whole of the Kandayen if the entire S. no 16 had been placed in his possession. That if the Khatedar failed to pay his portion of the arrears, his share of land should be sold. And that he was declared the Hissedar of S. no 16 by a decree of the Civil Court.

7-9-97 — (6) 7

9 The Amildar submitted the following Report to the Collr along with the Sale Confirmation Statement — That Venkatappa

13-10-97 — (17) 7
Report no 660.
Vide — (12) 7 for Sale confirmation Statement —

Khatedar of S. No 216 failed to pay the revenue arrears of his land and consequently his S. No 16 was forfeited and sold for Rs 66 to one Gangadharayya, after serving notice of sale duly on the Khatedar. Mal- Lakka submitted a petition stating that he was a half sharer of the land & that Venkatappa allowed the sale proceedings to take place, with a view to defraud him. Mal- Lakkanna at first paid half of the arrears & then the whole of them. That the amount was held in deposit. And that the Khatedar reported that the purchaser was not willing to relinquish the land.

Vide- Dy. Com'r's order No 584/762 of 1-11-37 enclosure to (17)/7.

10. The Dy. Com'r on the receipt of the above report passed the following order— That the notice of demand was served both on the Khatedar Venkatappa & his sadar Lakka for revenue arrears. That as neither of them paid up

the arrears, S. no 16 was sold on 29-5-97. That Lakka remitted ½ of the arrears to the Taluq office by means of money order on 8-6-97 submitting at the same time a petition for cancelling the sale. That Lakka ought to have remitted the arrears before the sale. But that he failed to do so & remitted the arrears ten days after the sale. That therefore his money should be returned to him. And that the sale conducted in accordance with the sale rules could not be set aside & it is confirmed.

11. Meanwhile Lakka had submitted the following petition to the Amildar — That the Patel and the Shanbhog refused to receive money & therefore he remitted the arrears by means of money order. 15-10-97—(13)7

12. The Amildar took down the following deposition of Lakka — That S. no 16 comprising 4 acres and 27 guntas belonged to 19-10-97—(10)7

his brother and himself. That his brothers share was sold to Venkatappa in whose name patta was subsequently issued. That he remitted to the taluq office his share of the Kandayam viz Rs 22-6-0. That the sale of S. no 16 was held owing to the failure on the part of the Shekdar to pay his share of the Kandayam.

(14) — 28-11-97

13 The Amildar in accordance with the Govt's order referred to in para 12 gave the following Judgment to the Shekdar — That as Lalita did not pay up the whole of the arrears before the date of the sale his money should be returned to him. And that the sale could not be cancelled as it was held in accordance with the sale regulations.

Vide — Amildar's order no 150 dt — 28-11-97

(16) — 28-11-97

14 Lalita was accordingly given notice to receive back his money.

(15) — 10-12-97

15. Gangadharaya got possession of S. no 16 and gave a muchalika to that

effect. He also applied for the Sale Certificate to the Amildar who referred the matter to the Dy. Govt. And the Dy Govt directed the Amildar to submit the boundary statement of S. No 16 which the Amildar did. 20-12-97 — (24)7

7-5-98 — (27)7

16 Meeran Lebbenna submitted the following appeal petition to the Dy Govt — That the petitioner's brother Beera sold his share of S. No 16 to Venkataramaya the 1st Counter-petitioner. That on the representation of the petitioner that the patta of the land should be issued in his own name, it was issued in the name of the 2nd Counter-petitioner on the plea that it would not prejudice the interest of the petitioner in his land. That the 1st Counter-petitioner was in the habit of receiving Rs 30 as Kandayam from the petitioner. That the petitioner refused to give in excess of the actual amount of Kandayam & the Counter-petitioner sued the petitioner in munsif's court for Rs 95 ~~being more~~ But the court decreed only for Rs 33/- That the petitioner

6-1-98 — (20)7

hole —
petitioner — Lebbenna
counter-petitioner — 1 Venkataramaya
2 Venkatasiva
3 Gangadharaya.

thereon applied to the Amildar for the issue of the land submitting at the same time the decree of the court & obtained duplicate patta of the land. That on account of this suit the 1st & the 2nd Counter-petitioners were unfavourably disposed towards the petitioner, and managed to get this house and S.no 16 sold without his knowledge on 29-5-97 forging his signatures on the sale notices. That the sale of his house was intimated to him by the Shekdar on the evening of 29-5-97. That the petitioner knew not either the tax that was levied on his house or the sale notice that was published. That the petitioner after finding the fraud committed by the Patel & the Shanbhog in connection with his house and land submitted petitions to the Amildar on 8-6-97, 21-7-97, 7-9-97 & 15-10-97 to cancel the sale. That on 19-10-97 the Amildar gave verbal orders to the effect that the sale would be cancelled if the petitioner would pay up the arrears due from the Counter-petitioner. That

accordingly the petitioner on
20-10-97 paid Rs 23-15-0
to the Taluq treasury. That
with a view to drive the
petitioner out of the village
the Counter-petitioners nos
1 and 2 caused by means
of fabricating false
records, his land worth
about Rs 600/- to be
sold to Ganpadharaya
nephew (ie sisters son)
of them ~~Counter~~ for Rs 46-11-0,
and the house worth
about Rs 60 to be sold
to the 1st Counter-petitioner
for Rs 2-4-0. That in
spite of his representations
regarding the fraud committed
by the Patel & the Shanbhog,
he was given endorsement
no 62 by the Amildar on 9-12-97, to the effect
that the sale could not
be cancelled as the petitioner
did not show sufficient
reason for that concession.
That the petitioner remitted
his share of Kandayam
within days after the
sale. That the petitioner
knew not in time the
fraud exercised by the
Shanbhog & the Patel to be
on his guard. And that on
these grounds the sale might

4

be cancelled & his land be restored to him.

17 The Dy. Com^r directed the Amildar to report on every point mentioned in the above petition

18 The Amildar reported as follows—

Vide — Amildar's report — No 1324 of 29-1-98 / 1341

"6 The petitioner's brother Bella in 1887-88 transferred S. No 16 which was in his name, to Venkatappa. Lalika and his another brother Manji Ranga objected to the transfer in the month of march 1888-89, on the ground that they had shares in the land. Their petition was endorsed (on their petition) that the transfer of Patta would not prejudice the interest of the sharers. By this reference the petitioner appears to have a share in the land. S. No 16. When on 1-4-95 Lalika applied for the duplicate copy of the patta, the Sheristadar was given order No 231 of 2-4-95 to give the petitioner the said copy. By this reference also Lalika appears to have a share in ~~his land~~ S. No 16. The sale of the petitioner's house

was Cancelled as it was irregular. The sale of S. no 16 was held in accordance with the sale rules. The sale notices were duly served on Khatedar Venkatappa and Lakkanna. After the sale Lakkanna remitted Rs 22-12-0 as his share of Kandayam & asked for the cancellation of the sale. The remittance was accepted. But as there was no cause to cancel the sale, the petitioner was asked to pay up the whole of the arrears on the inducement that there would be some room to write to you for cancelling the sale. The petitioner paid up the whole sum & it was held in deposit & the whole of the sale proceedings was submitted to you. Thereon order no 509/742 dt 1-11-97 was received from you to the effect that the sale could not be cancelled and the deposited amount should be returned to the petitioner. In the light of the upset price of the land in question & as

Rs 50, But in the sale the land was sold to R. G. But by recent investigation the land seems to be of higher value than it was formerly estimated. The purchaser in the sale appears to be ~~the petitioner's~~ sister's son.

Vide Exhibit A

The "gid" between the petitioner & the counter-petitioner is apparent from the records. As the petitioner failed to pay the whole of the Kandayam and wished that only the portion of S. No 16 which belonged to the Khaledar should be sold, the sale proceedings had to be recoursed to. The petitioner's plea that the sale was held without his knowledge could not be believed."

20 The Dy. Comr. therein ordered as follows — That the sale ~~is already~~ was confirmed by order No 589 of 21-11-97, on the receipt of the Amildar's report ~~dated~~ dated 15-10-97. That it is enjoined by section 184 of the Rev. Code that appeal should be made within 30 days

Vide — Dy. Comrs Order No 1157/1335 & 28-2-98.

afterwards from the
date of the sale for not
confirming the same
if there are proper reasons
to that effect. That the
appellant had five months'
interval between the date
on which the sale was
held & the date on which
it was confirmed, to
appeal against the con-
firmation of the sale. That
in spite of it the appellant
submitted his petition for
Cancelling the sale after
its confirmation. But
that there are not sufficient
reasons for Cancelling
the sale, & that therefore
the sale cannot be can-
celled & the appellant
may appeal against the
order.

21 The petitioner was
given endorsement no 2858 3-3-98
to the same effect.

Lakkamma has brought
an appeal against the
above order of the Dy. Coll.

The grounds of appeal are —

(a) That Venkataramayya
the 1st respondent is the
husband of Jakkamakalli
Venkatappa the 2nd respondent

is the undivided brother of the 1st respondent; and Gangadharaya the 3rd respondent is Vallattiyar's sister's son.

(b) That S. No 16 was in the joint enjoyment of the appellant and the 2nd respondent. That the 2nd respondent instead of recovering from the appellant Rs 22-6-9 being the amount of Kandayan on his portion of land, used to recover from him Rs 30. And that the appellant on coming to know of this, complained against the 2nd respondent and obtained a duplicate of the patta of the land.

(c) That on account of this patta, the 2nd respondent secured the help of Shekdar Subbaraya of Dandina-Sivara & the ryots who cultivated his land viz Heralakatte Betta, Dyavana Gundada Betta and Kaje Gowda, and got the land sold fraudulently to the 3rd respondent without

the knowledge of the petitioner-appellant.

(d) That the appellant on coming to know of this fraud, submitted a petition to the Amildar on 8-6-97 i.e within 30 days of the sale, for the cancellation of the sale. That the Amildar instead of informing the appellant that he should appeal to the Dy. C. and kept silence for four months and created an impression in the mind of the appellant that the sale would be cancelled.

(e) That the notice of 1-3-97 is signed by Patel Hanumanta. (1)7
gowda who acted in collusion with the respondents

(f) That the attachment list of 31-3-97 has (2)7
been signed by Patel
Dase gowda and Betta
of Devarasandra, both of
whom are the ryots of
the 1st respondent viz-
Shamboleng Venkataramaya.

(g) That the sale notification (4)7
of 16-4-97 has been signed

by Kesalakatte Battu & Jayarama the agents of the 1st respondent.

(h) That the sale list has also been signed by the same individuals who have signed the sale notifications.

(i) And that the portion of S. No 16 belonging to the appellant is worth about ~~xxxxx~~ Rs 500. That such a portion the respondents have obtained in sale for Rs 65. That the sale should be set aside under section 166 of the Land Rev. Code.

And the appellant prays on these grounds that the sale of S. No 16 may be cancelled & his land be restored to him.

The above appeal petition was referred to the Dy. Com.r for report & the Dy. Com.r referred the same to the Amildar who reports as follows—

That the 1st respondent viz Venkataramanappa is the Shanbhog of Jakkanahalli. That the 2nd respondent—

Vide Amildar's Order No 2011 dt 27-5-88

is the brother of the 1st respondent. That Ganpadharaya is the 1st and the 2nd respondents' sisters' son. That Venkatappa is the Shiledar of S. no 16. That by records Lakkanna appears to have a share in the said land. But that Lakkanna did not cause his name entered in the special register. That the notice is served both on the Shiledar & Lakkanna. That by the records it is ascertained that no fraud was committed by the Shekdar, in Shanbhog and the Ryots as was represented by Lakkanna. And that after the sale, Lakkanna submitted a petition against the sale, the correspondence in consequence of which caused delay in submitting the sale proceedings for confirmation. That the land was estimated at Rs 50, but it was sold for Rs 66/-.

On the whole of the records of sale the Dy. Com^r reports that the Amildar was not

Vide-Dy. Com^r's report no 12 of 5-7-90.

right in accepting the money remitted by the appellant ten days after the sale and delaying to submit the sale records for his confirmation and that there was no irregularity in the sale proceedings

Date of demand notice 1/3/97
service on Lakkanna 11/3/97

Date of forfeiture 16/4/97
Date of sale proclamation 16/4/97
Date of publication 22/4/97
Sale 2/5/97

16/4/97

From sections 184 & 183 of the L.R. Code, it is clear that application to set aside a sale should be made to the D. commr (or asst. commr in charge of the taluk) & not to Ramadas

The ramadas in receiving pet[n]. from the appellant & enquiring into them after the sale was acting ultra vires

The appellant is not a registered occupant but a co-occupant whose

interests are protected by

Sec 77-8 of the LR Code

GO No 4377-84 dt 14/9/92 (vide Annexed copy of the LR Rules)

R 634-92

The appellant, though served with notice of demand of arrears, failed to pay them till the Sale was over & even then remitted only his share of the arrears.

Under the Sec ~~order~~ above quoted the appellant ought to have paid the whole of the arrears to prevent Sale of the land.

The appellant's allegation that the patel forged his Signature to the several notices seems to have been an after thought as no such allegation appears in his first petn to the Amildar after the Sale & the surrounding circum-

Slanes-viz that the
Khaleda was present at
the Sale & allowed his Nephew
to buy the land & that
the Khambog is the
brother of Venkatappa-
are ~~not~~ suspicious but
it is an elementary
principle that fraud
must be proved and
not merely inferred

17/8/98

12

Before the Government of Mysore.

Appeal No. 53 of 1897-98

Appellant.	Vs.	Respondent.
Lakkamma, Jakkenahalli, Gubbi Taluk.		Gangadharaiya

Subject:- Dispute regarding the sale of S. No. 16 of Jakkenahalli. Secs 184 & 185 of the L R Code

Parties & the 1st Court

Sh'd & 1st Counsellor

14/9/98

9853/

[illegible]

23/

14/9/98

[illegible]

10.10.98

Before the Government of Mysore.

No. 80 of 1897-98.

Appellant	Vs.	Respondent.
Lakkanna of Jakkenhalli Gubbi Taluk.		Gangadharaiya.

Notices Served.
Respondent has sent a telegram praying for adjournment.
19. 9. 98.

20/9/98

Resp^t has appeared and

1st C^r — " Appellant's share of Kandayam today's [illegible] the sale — The full amount on the [illegible] paid."

Case is adjourned to 5th October

5 the Dec^r

Appt's request

5th Dec

R 85-97-1 1898

No. 2530 SC 97-98 brother

Name of Petitioner Lakkireddi ... Ramireddi Ramireddi

Village Jakkireddipalli

Taluk Pulivendla

District Cuddapah

Date of Arzi

Date of Receipt 13-4-98

Date of Disposal

No. of Enclosure 1

ABSTRACT

Appeal against the order passed by the Cuddapah District Collr in OS 3-3-98 ...

The order appealed ...

Suit for declaration ... Lakkireddi Ramireddi ... Jakkireddipalli ... Lakkireddi Ramireddi ... Jakkireddipalli ... Lakkireddi Ramireddi ... Jakkireddipalli

Land Reclamation Act, 1st Schedule, 2nd
sufficient ground appears to the
Sale Commissioners, an appeal
should be preferred within 21 days
of the Sale.

Accordingly you had 21 days
within which to date, Sale and
Confirmation to submit your
claims. Should this not be
done then you automatically
lose your right of appeal
-Sale for failure to comply with
Confirmation of Sale, dated
the 6-1-98. Here we are sufficient
ground to prove the case
for the Sale was in 1-11-97 before
-ing the Sale.

You may prefer an appeal against
the Confirmation of Sale as
the grounds.

The appellant says:-

That on or about the 18th day of
the Chargeable Valuation
Valuation, the 2nd respondent is
the owner of the hereditament
-ent and was at the 3rd respond-
-ent is the owner of the hereditament

Survey No. 16 of Jallikanahalli
was in the joint enjoyment of the
appellant and the 2nd respondent.
The south of the said was in the share
of the 2nd respondent. The 2nd respondent
instituted proceedings from which Rs.
22-6- of the amount of Kandayam
or tax for the said land, and to re-
cover from him Rs. 30/-. The appellant
has brought this suit against the 2nd respondent and others
as defendants of the partition.

Whereupon the 2nd respondent com-
menced to cut with his hand-sickle
and attempted to carry the rice
land. To fulfil the object he cut the
the rest of the 1st and the 2nd respondents
shares in Survey No. 16 and the respondents
are not entitled to the land
in dispute, by any means
and are wrong. By this help
he got the land fraudulently
and clandestinely and removed down
by 2nd respondent.

The appellant on coming to know
of the fraud submitted a petition to the
Amildar on 8-2-97 praying for the
Cancellation of the sale. On addition
to this he also submitted 30 petitions

bille dated 30th January 1897 in favour of the Respondent Patel Lalji Ramji Kanda.

The Appellant has appealed against the said decree passed on the appeal by the 4th Joint Subordinate Judge at Mombasa dated the 30-6-97 dismissing his suit with costs and the Appellant has appealed to this Honourable Court against the said decree of the 4th Joint Subordinate Judge.

At the hearing of this appeal Mr. Shamdasani appeared for the Appellant while Mr. Kapila appeared for the Respondent.

Mr. Shamdasani for the Appellant submitted that the Learned Trial Magistrate misdirected himself in law and in fact in holding that the Appellant had failed to prove his case against the Respondent on a balance of probabilities

Patil Jadavrao Dagdu, both of whom are the legal heirs of the 1st respondent Manikrao Sukhatanna.

The Sale notification of 16-4-97 has been signed by Narsubhatta Patil and Jadavrao, the legal heirs of 1st respondent.

The Sale has not been signed by the Lawyer Mr. Ghanekar who signed the Sale notification.

In the notice of 26-5-97 Patil Bhagwanrao has signed for the Mortgagee appellant.

In the Attachment Petition 3-97 the 1st respondent has signed for the mortgagee Patil Jagannadha.

The properties are in Jatikamathi There are large number of people in the village besides the respondents and witnesses. They are capable of attesting the Sale deed. It cannot be believed that besides the present witnesses there were not other people available to attest the proceedings which took place on different dates. It is false that the Sale notification was affixed to the Chavadi - for, no Chavadi or any place used as Court exists in Jatikamathi.

Learned Mr. Amitkar cancelled the Memorandum of Sale of the house only but not that of the land.

The portion of survey no. 6 belonging to the share of the appellant is alone

Article 10 : Sachant que les parties ne reconnaissent leur obligation que pour la somme de 45. Que la différence frauduleuse sur la somme de 45 à 145 - St Chrodegang Caudellemont Lecuir 85 Gille Rue Sec.

Vue du jour saisi du Lundi Mai Montcornet, Jean Caudellemont Gale - Bat le défendeur de la procuration de Caleman Caudellemont Lebrasseur à Laon assisté 30 days (Gille Gale).

Ni signature de Gille, Lundi 20 Mai Gille assistant Montcornet informé Gille Jurisdiction

Rapport du jugement, Gille Jean Caudellemont Engagement de 145 pour Gale Mayle Caudellemont Caudellemont Laon

14/4/98

2530.

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REGD. NO. 2530
DATE 13-4-98

4

ಕ್ಷೇತ್ರ ಪರಿಶೀಲನೆ ಮಾಡಿದ್ದು ಸಂಬಂಧಿಸಿದ ಪ್ರದೇಶದಲ್ಲಿ ಸಂಚಾರಿ ಪೊಲೀಸ್ ಠಾಣೆ ಇಲ್ಲದ ಕಾರಣ
ಸಂಚಾರಿ ಪೊಲೀಸ್ ಠಾಣೆಯನ್ನು ತೆರೆಯಲಾಗಿದೆ

ಆ 2) ಸಂಚಾರಿ ಪೊಲೀಸ್ ಠಾಣೆಯ ಸಿಬ್ಬಂದಿಗಳಿಗೆ ಅಗತ್ಯವಿರುವ ಕಚೇರಿ ಕೊಠಡಿ ಮತ್ತು ಸಿಬ್ಬಂದಿಗಳಿಗೆ ವಸತಿ ಗೃಹಗಳ ಕೊರತೆ ಇರುವುದರಿಂದ ಸಂಚಾರಿ ಪೊಲೀಸ್ ಠಾಣೆಯನ್ನು ಪ್ರಾರಂಭಿಸಲು ಸಾಧ್ಯವಾಗಿರುವುದಿಲ್ಲ. ಸಂಚಾರಿ ಪೊಲೀಸ್ ಠಾಣೆಯನ್ನು ಪ್ರಾರಂಭಿಸಲು

Pet 1333/28/4/98 P2

28-4-98

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

LR 85-97-8

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition 2330 dated 13-4-98 received at the Dewan's Office from Lakkanna of Jalkanahalli village in Pavagada Taluk appealing against the order of the Deputy Commissioner declining to cancel the sale of S.No. 16 of Jalkanahalli village for arrears of kandayi

is forwarded, together with its enclosures, to the Deputy Commissioner of the Tumkur District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

2. The petition with its enclosure should be returned.

The Deputy Commissioner is requested to report why there was a delay of 4 months and 16 days in sending the sale records for confirmation and why the petitioner's allegation is not true, and why the Ryot should not be prohibited from preferring petitions against the confirmation of the sale.

By order,

Secretary.

BANGALORE,
18

Rev Cr
Eastern Dy
25-6-98
29
25.6.98

By order
for Secretary

(General Serial No. 30)

REVENUE DEPARTMENT
Dl. No. 147
JUL 8 - 1898
SECRETARIAT OFFICE

189

From The Deputy Commissioner Kolar District.

To The Secretary to the Govt. of Mysore, Genl. Secl. Department.

Dated 5-8 July 1898.

Despatched 6-8 —— Do ——

Received

Enclosures No. Petition

General No. 12-
No.

Govt. official Memorandum No: Petition 1000 dated 29th April 1898.

—— o ——

Reporting on the petition of Lakkanna of Jakkenahalli Gudibanda Taluk.

Petition Rd
8/7/98

Read 9/7

9-7-98 (2 P.T.S)
Refer put up

AR
4/7/98
Subd

LR 85-97-8

mm
12-7-98
This may be regularly submitted to be taken for press
My 15/7/98

Mr Vadlamudi
15/7/98
Received 5-30 P.m.
Mm 15/7/98
press put up
15/7/98 Mm

R? 2/8/98
Subd
mm
5/8/98 C. Case
Put-for-hearing
My 17/8/98

Central Jail Press, Bangalore.—6-3-97.—10,002.

No 12. Deputy Commissioner's Office
Rec: Vaniyambadi Tumkur District

Dated, Tumkur, 5th July 1898.

To The Secretary to the Government of
Mysore General and Revenue Department

Sir,

With reference to Government official Memorandum No Rev 1333 dated 29th April 1898, forwarding for report the petition of Lakkanna of Jakkena halli, Gubbi Taluk, appealing against my order, declining to cancel the sale of survey No. 6 of Jakkenahalli held for the recovery of the arrears of Land Revenue for Durmukhi, in 1896-97, I have the honor to state as follows:-

2 The land in question stood in the Revenue Accounts in the name of one Venkatappa. When the revenue for the year 1896-97 fell into arrear, a notice of demand was duly served on the Pattadar Venkatappa

as well as on the Petitioner Lakka-
-mma who were known to be a
Hereédan in the Land and who
had, by virtue of his Hereé, en-
obtained a Duplicate Patta for the
same. (Vide Paper No I on the file
and the Endorsements on it overleaf)
The arrear not having been paid
even after due notice, the land in
question was declared forfeited to
Government and sold by auction
on the 29th May 1897 at which Ganga-
-dharaiya purchased it for Rs. 461/-
The Pattadar Venkataiya was present
at the sale.

3. Ten days after the sale, i.e.
on the 8th June 1897, Petitioner Lakka-
-mma sent to the Taluk Cutcherry
by means of a Postal Money
Order the amount Rupees 22-2-0,
being his share of the Kandayam

on No 16. The Landlord instead of refusing to receive the payment, went for the Petitioner and offered him the chance of paying up the whole of the arrear viz Rs. 45-9-9. His irregular proceeding on the part of the Landlord caused a delay of more than 4 months in submitting the sale records for my orders.

4. Petitioner's allegation having been duly served with the notice of demand, he cannot complain of want of notice. If he wished to save the Land from forfeiture and sale, he should have paid up the full amount of the arrear before the Land was knocked down at the sale. There being no irregularity in the sale proceedings the sale was confirmed on the

1st November 1897 and the amount paid by Petitioner was ordered to be refunded to him. Petitioner sought for a revision of this order in January 1898 but his application was rejected. Vide my order No 1157 dated 28th February 1898 (Paper No 32 on the file). Against this order Petitioner now appeal

5. The enclosures of the Memorandum under reply and the vernacular proceedings connected with the case are herewith submitted for reference.

I have the honor to be.

Sir

Your most obedient Servant

Deputy Commissioner

(5)

2 Drafts

Proceedings of the Govt of Bombay

Appeal No 80 of 1897-98.

Appellant: Lakkiranna of Jakkinahalli Gadhi Taluk

Respondent: Gangadharaiya.

Draft for approval
Subd by Govt Council
9/12/98

10280

9/12/98

Read:-

(1) Petition of appeal presented by Lakkiranna against the order of the Dy Commr of Tumkur declining to cancel the sale of his land Survey No 16 of Jakkenhalli ~~for arrears of revenue~~

(2) Letter No 12 dated 5th July 1898 from the Dy Commr Tumkur district reporting on the above petition.

(3) Records of the case, which show the facts to be as follows:-

One Venkatappa, brother of the Shanbhog of Jakkenhalli

was the Khalsa of Survey No 16 (measuring 14-27 a 12 20 Rs 407-10-5 including water-rate)
one half of which was in the possession of the appellant as co-tenant. The assessment of the land for ~~the year~~ 1896-97 having fallen into arrears, a notice of demand was issued by the Khalsa in March 97. It bears an endorsement in the hand-writing of Patel Nanjunda Gauda to the effect that the appellant affixed his mark thereto in his house in the presence of him. But the appellant denies all knowledge of the notice. The land was valued at Rs 50 by the Shirastedar, the ~~Sheristadar and his Peon~~ sale notification which was published by the Nazir, states the dimensions of the 3 houses to indicate its boundaries. The sale was held by the Shirastedar on 29th May 97 and the land

knew the land could be sold by the Khedivial estate, paying arrears for R.46, estimated. ~~Subsequently estimated value.~~ There were only two bidders for the land including the purchaser, and the Khedive was also present at the sale. Ten days after the sale, that is on the 8th June 1897, the appellant ~~petitioned~~ complained to the Arabic that the land was fraudulently sold without his knowledge, though he had repeatedly offered to pay his portion of the arrears, ~~and that he was willing to pay his portion of the arrears, and that he was willing to pay his portion of the arrears, and that he was willing to pay his portion of the arrears,

Conf the sale. Both the Dy. Comm^r confirmed the sale as he observed no irregularity in the sale proceedings

On 6th January 98 the appellant presented a petition to the Dy. Comm^r, on which the Amildar reported that the land was worth more than Rs 10 estimated value. But the Dy. Comm^r declined to interfere with his previous order. Hence the present appeal of the appellant. Appeal is against the above order.

Order No 6280 dt 16.12.98
O.T. 47-98 / 17

We observe that the land which is worth more than Rs 50 was improperly undervalued by the Deputy Collector at the sale being held by the Sheristar. This conflicted with other irregularities elected in the case circumstances rendering the sale void. The sale will therefore be

[1] Rule 101 framed under S. 203 of the Bombay Land matter of importance, in the case of a land whose value exceeds Rs 50 and the sale should be confirmed by the Amildar or such other officer as may be specially empowered in that behalf by the Collector - It is only when the estimated value does not exceed Rs 50 the sale may be confirmed by the Sheristar. Then in any event a confirmed

be set aside (and the assessment will be required to pay the assessment in such sum as shall, within a reasonable time to be fixed by the Dir. Comm. If it is not so paid, the entire land will be sold in conformity with the Rules.

A Staff-
C 1, 2

For Secretary

To the Dir. Comm.
From his Dictation
Records.

8/12/98.

This may be
opened in Port
and attended
pursuant to Trust
Deed of my Colleague
Agra

9. 12. 98.

Sub Δ 2nd Comm. Alla
10/12/98

RD 7th Bn.
10.12.98.

12/12/98

Opened
12-12-98

Pressing Instructions
15-12-98

(5)

1898-99

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 16*th December* 189

No. 4280 / Pet. F. 47-98

Passing orders on the appeal of Lak-
ia and setting aside the sale of S. No. 16
of Jakkanhalli as having been held in con-
travention of Rule XLI framed under Sec-
tion 173 of the Mysore Land Revenue Code.

MGCPC—4-1-99—200

Proceedings of the Government of Mysore, Petition, dated 16th December 1898.

Appeal No. 80 of 1897-98.

Appellant.	*Respondent.*
Lakkamma of Jakkanhalli, Gubbi taluk.	Gangadhariah.

READ —

1. Petition of appeal presented by Lakkamma against the order of the Deputy Commissioner of Tumkur, declining to cancel the sale of his land, S. No. 16 of Jakkanhalli.

2. Letter No. 12, dated 5th July 1898, from the Deputy Commissioner, Tumkur district, reporting on the above petition.

3. Records of the case which show the facts to be as follows:—

One Venkatappa, brother of the shanbhog of Jakkannalli, was the khatedar of S. No. 16 (measuring 14 acres and 27 guntas assessed Rs. 40-10-5 including water-rate) one-half of which was in the possession of the appellant as co-occupant. The assessment of the land for 1896-97 having fallen into arrears, a notice of demand was issued to the khatedar in March 1897. It bears an endorsement of service purporting to be in the handwriting of patel Nanjundaganda to the effect that the appellant affixed his mark thereto. But the appellant denies all knowledge of the notice. The land which was valued at Rs. 50 was sold by the shekdar on 29th May 1897, and was knocked down to the khatedar's sister's son, Gangadhariah, for Rs. 16. There were only two bidders for the land including the purchaser, and the khatedar was also present at the sale. Ten days after the sale, that is, on the 8th June 1897, the appellant complained to the Amildar that the land was fraudulently sold without his knowledge, though he had repeatedly offered to pay his portion of the arrears. The appellant having produced the entire amount in arrear under the orders of the Amildar, the latter recommended the cancellation of the sale. But on 1st November 1897, the Deputy Commissioner confirmed it as he observed no irregularity in the sale proceedings. On 6th January 1898, the appellant presented to the Deputy Commissioner a review petition on which the Amildar reported that the land was worth more than Rs. 50. The Deputy Commissioner, however, declined to grant the review applied for. Hence the present appeal to Government.

No. 4280—PET. F. 47-98, DATED BANGALORE, 16TH DECEMBER 1898.

ORDER THEREON.—Government observe that the land which is now admitted to be worth more than Rs. 50, appears to have been purposely undervalued by the shanbhog and shekdar to admit of the sale being held by the latter. Rule XLI, framed under Section 173 of the Mysore Land Revenue Code, makes it imperative in the case of a land whose value exceeds Rs. 50, that the sale should be conducted by the Amildar or such other officer as may be specially empowered in that behalf by the Deputy Commissioner. It is only when the estimated value does not exceed Rs. 50, that the sale may be entrusted to the hobli shekdar. There was therefore a material irregularity in this case, in that the sale was held by the shekdar in contravention of the rule aforementioned. This coupled with other suspicious circumstances elicited in the case, rendered the sale void. The sale will therefore be set aside, and the appellant will be required to pay the assessment in arrears, in full, within a reasonable time to be fixed by the Deputy Commissioner. If it is not so paid, the entire land will be sold in conformity with the rules.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Tumkur District, with records.
The Deputy Commissioners of other Districts.

Exd.—A. A. R.

(4)

Draft
16-12-98

సంతకం
2530/-

Mallamma
Draft received
& read. Mamilla
The Card does not
fulfil the
requirements
of the
Draft
9/1/99

L.R. కాపీ
పేరు

(7)

1897

No. 11 & 8

Name of Petitioner Gangadharia

Village

Taluk Gubbi

District Tumkur.

Date of Arzi 15-2-99.

Date of Receipt 23-2-99.

Date of Disposal

No. of Enclosure Nil.

Appeal No 50 of '97-98

Appellant- Respondent

Lakka Gangadharia

ABSTRACT

States that he was unable by means of telegram, his inability on account of plague to attend the date of hearing the above case, still the case was disposed of ex parte, that it was not on account of any misdemeanour or neglect on his part but he failed to present himself on the date of the hearing, that in the endorsement No 2530 of

Rupee
3.99

530 of 97 S. T. Dy of 98.

Appl
1/3/99
AK.
2-3-99
Filed

The above file on the Calyut is put up

LR 85-97
Le 6

(1) One Rupee stamp affixed - Stamp supplied.

(2) Application for review of Order (Endt No 2530 dated 16.12.98 by the Respondent. (in time)

Mag
2.3.99

(3) Sht of 2nd consulted

2/3/99

Nil -
Decline
Un-necessary
already decided

Mag
31.3.99

1/4/99.

Endorsement signed
CK
4/4/99.

December 1898 it is stated
that as the value of the land
is above $50 the Sheriff
had no power to sell it,
which the petitioner says
~~The petitioner says~~ that the
Sheriff sold it under orders
of the Circuit Court that the
appellant knew full well
the circumstances of the sale
that as he failed to appeal
~~appeal~~ within thirty days
from the date of the sale, his appeal is
barred by limitation.

Prays that both parties
must be heard and final
~~Orders~~ passed in this case.

M
8-2-99

15-2-92

15-2-92

One Rupee Stamp affixed only

Dy. No. 1/1st-Addl-Agreement
Dated: 15-2-92

ਸਾਰੀ ਸੰਗਤ ਨੂੰ ਬੇਨਤੀ ਹੈ ਕਿ ਸਾਰੇ ਇਕੱਠੇ ਹੋ ਕੇ ਜੈਕਾਰੇ ਲਗਾਓ ਜੀ।

ਜੈਕਾਰੇ ਲਗਾਉਣ ਤੋਂ ਬਾਅਦ

ನಂ.ಆಯ್ಕೆ/
1448/
(8)

ಸಂಖ್ಯೆ
ದಿನಾಂಕ 6-4-99

ಶ್ರೀ

ಸಂಬಂಧಪಟ್ಟ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ

ಸಂಬಂಧಪಟ್ಟ ಪತ್ರಗಳು ಮತ್ತು ಅರ್ಜಿಗಳು